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APPLICATION NO. FILINI U97484, 121	G DATE 01/13/00 9	FIRST NAMED INVEN	ITOR	ATTO	ORNEY DOCKET NO. 0107-020P/G
GABRIEL P. KA 708 THIRD AVI 14TH FLOOR NEW YORK, NY	ENUE,	HM11/0509	¬ [EXAI KAM, C ART UNIT 1653	MINER PAPER NUMBER
				DATE MAILED:	05/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary Examiner			Application	Vo.	Applicant(s)				
Examiner Chilh-Min Kam - The MAJLING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A Shork IENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ± MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Selections of time may be available under the provisions of 3 CFR 1 136 (s). In no event, however, mays reply be timely filed the provision of the major globe of the correspondence and the correspondence of the provision of		Office Action Summary	09/484,121						
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Application/Control Number: 09/484,121

Art Unit: 1653

DETAILED ACTION

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- 2. Restriction to one of the following inventions is required under 35 U. S. C. 121:
 - I. Claims 12-17, drawn to LBP proteins, classified in class 530, subclass 350.
 - II. Claims 18, 22 and 23, drawn to a method of making LBP protein by expressing the protein in cells, classified in class 435, subclass 69.7 and 320.1.
 - Claims 19 and 20, drawn to a method of treating septicemia caused by gramnegative or gram-positive bacteria using the protein agent, classified 514, subclass
 2.
 - III. Claim 21, drawn to a method of treating systemic inflammatory response syndrome caused by trauma and injury using the protein agent, classified 514, subclass 2.
- 3. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be isolated from its natural source or made by chemical peptide synthesis.

Inventions I and III, IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP

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§ 806.05(h)). In the instant case the protein as claimed can be used in an alternative process of layorisms III and IV.

Invention II is distinct from Inventions III and IV because the two groups of methods are independent, using separate method steps, active agents, and having different effects.

Inventions III and IV are related because the inventions use the product of Invention I. However, the method steps and the outcome are wholly different between Inventions III and IV, therefore, Inventions III and IV are patentably distinct.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, and because Inventions I-IV require different searches but are not co-extensive, examination of these distinct inventions would pose a serious burden on the examiner and therefore restriction for examination purposes as indicated is proper.

A telephone call was made to Gabriel Katona on April 20, 2001 to request an oral election to the above restriction requirement, but did not result in an election of the inventions.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the craminer should be directed to Chih-Lin Itam whose telephone number is (703) 306-9437. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (703) 308-2923. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-0294 for regular communications and (703) 308-4227 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Chih-Min Kam, Ph. D. Patent Examiner

April 20, 2001

Christopher S.D. bu

CHRISTOPHER S. F. LOW SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1600